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EXAMINER

CAMPBELL, KELLIE L

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/771,993	Applicant(s) KATZ ET AL.	
	Examiner KELLIE CAMPBELL	Art Unit 3691	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 March 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2,4-13 and 17-25 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-2, 4-13, 17-25 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. The following is a final Office Action on the merits in response to the amendment filed on March 23, 2009. Claims 1, 18, and 22-25 are amended. Claims 3 and 14-16 are cancelled. No new claims are added. **Therefore, Claims 1-2, 4-13, and 17-25 are pending and examined below.**

Response to Amendment

2. Applicant's amendments to the drawings are sufficient to overcome the objections set forth in the previous Office action. Therefore, the objection is withdrawn.

3. Applicant's amendments to Claims 1, 18, 19, 23, 24, and 25 are sufficient to overcome the 35 U.S.C. 112, second paragraphs set forth in the previous Office action. Therefore the rejections are withdrawn.

Response to Arguments

4. Applicant's arguments with respect to claim 1-2, 4, 6-8, 10-12, 14-15, 17-18, and 20-21 have been considered but are moot in view of the new ground(s) of rejection necessitated by Applicant's amendments.

Claim Rejections - 35 USC § 112

5. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Art Unit: 3691

6. **Claims 1-23 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.**

7. **As per Claims 1, 24, and 25**, nowhere in the specification does Applicant describe “an inverting routing that inverts the net price of each of the inverse complex order” or an inverted net price. The specification only mentions inverting the legs of the complex order (page 45). Therefore, Claims 1 and 24-25 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement.

8. **As per Claims 2, 4-13, and 17-23**, they are rejected 35 U.S.C. 112, first paragraph at least for their dependence on Claim 1 which is rejected 35 U.S.C. 112, first paragraph.

Claim Rejections - 35 USC § 112

9. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

10. **Claims 2, 4-13, and 17-25 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.**

11. **As per Claim 1**, it recites “if such an inverse order is found”. This recitation is vague and indefinite because it does not require the preceding steps to occur because of the recitation “if”. Language that suggests or makes optional but does not require

Art Unit: 3691

steps to be performed or does not limit a claim to a particular structure does not limit the scope of a claim or claim limitation. Applicant should positively recite any required steps to be performed.

12. **As per Claims 1, 24, and 25**, they recites “an inverting routing that inverts the net price of each of the inverse complex order” or “an inverted net price”. This recitation is vague and indefinite because it is unclear how a “net price is inverted”. Does Applicant mean by inverted net price merely the net price of the inverse order? Does Applicant mean 1 divided by the net price? Clarification is required. For purposes of examination, Examiner will interpret the recitations to cover the net price of the inverse complex orders.

13. **As per Claims 2, 4-13, and 18-23**, they are rejected 35 U.S.C. 112, second paragraph at least for their dependence on Claim 1 which is rejected 35 U.S.C. 112, second paragraph.

Claim Rejections - 35 USC § 102

14. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

15. **Claims 1-2, 4, 6-8, 10-12, 14-15, 17-18, and 20-21 are rejected under 35**

U.S.C. 102(b) as being anticipated by U.S. Patent 4,903, 201 to Wagner (hereinafter Wagner).

Art Unit: 3691

16. **As per Claim 1**, Wagner discloses a system for executing a financial transaction to purchase or sell a plurality of financial instruments (Column 1, Lines 5-13, The present invention relates to a futures trading exchange and in particular to an automated open outcry futures trading exchange having a central processor associated with one or more remote terminals through which trades can be made by members of the exchange who enter offers or bids at the remote terminal and couple them to a central processor which compares any bid with offers on a priority basis, finds a match and completes the execution of the transaction.; Column 4, Lines 10-13, The exchange central computer will be able to handle a full array of futures orders including straddles, limit orders and stop orders), the system comprising:

a memory adapted to store a plurality of orders or quotations to purchase or sell the financial instruments (Column 7, Lines 3-8, Thus, if remote terminal 18 is a "smart" terminal, it may include a microprocessor 22 which would include a keyboard and a display for text editing which is associated with a memory or storage unit 24 through connection 26, a printer 28 through connection 30 and an output on connection 34 to modem 32.; Column 3, Lines 43-47, The exchange central computer will retain all orders received, arranging each bid and offer on the basis of its price, quantity and entry time and displaying all bids in descending order of price and all offers in ascending order of price.; Column 6, Lines 13-18, FIG. 6 is a diagrammatic representation of the memory storage circuits of the host or central computer in the trading system for storing the bids or offers by time, price and quantity),

Art Unit: 3691

the orders or quotations including at least one complex order and a plurality of inverse complex orders, the complex order and inverse complex orders each having a net price (Column 3, Lines 43-47, The exchange central computer will retain all orders received, arranging each bid and offer on the basis of its price, quantity and entry time and displaying all bids in descending order of price and all offers in ascending order of price.; Column 3, Lines 53-58, In addition, the video monitor of each remote terminal will display lot sizes, last sale prices, daily price ranges, the volume for each contract month, the spread relationships or price differential among the various contract months, and allows simultaneous spread trades (both in time and by commodity) to take place; Column 4, Lines 10-13, The exchange central computer will be able to handle a full array of futures orders including straddles, limit orders, and stop orders).

and each including a plurality of legs, each leg being an order to purchase or sell at least one of the financial instruments (Column 4, Lines 10-13, The exchange central computer will be able to handle a full array of futures orders including straddles, limit orders and stop orders.; Column 13, Lines 39-47, The conditional orders are either "fill or kill" or "limit up," "limit down," "time order," "at market" , "stops," and "spreads/straddles." Other types could be established if needed or desired.; Column 3, Lines 53-58, In addition, the video monitor of each remote terminal will display lot sizes, last sale prices, daily price ranges, the volume for each contract month, the spread relationships or price differential among the various contract months, and allows simultaneous spread trades (both in time and by commodity) to take place);

Art Unit: 3691

a processor coupled with the memory (see Figure 6; Column 7, Lines 3-8, Thus, if remote terminal 18 is a "smart" terminal, it may include a microprocessor 22 which would include a keyboard and a display for text editing which is associated with a memory or storage unit 24 through connection 26, a printer 28 through connection 30 and an output on connection 34 to modem 32.; Column 6, Lines 13-18, FIG. 6 is a diagrammatic representation of the memory storage circuits of the host or central computer in the trading system for storing the bids or offers by time, price and quantity); and

a matching algorithm coupled with the processor, wherein the processor uses the matching algorithm to match each leg of the at least one complex order with other orders or quotations stored in the memory (Column 12, Lines 16-19, As the order is time stamped and filed in the history file of the memory 220; Column 12, Lines 8-15, If identifier unit 194 determines that the incoming signals constitute a new order, it produces an output on connection 210 to the order process circuitry 212 in the central processor unit for processing. The output of circuitry 212 on line 214 is coupled to a time stamp unit 216 and sent through connection 218 to the memory history file 220. Thus, a file history of all orders is kept in memory 220.; Column 1, Lines 5-13, The present invention relates to a futures trading exchange and in particular to an automated open outcry futures trading exchange having a central processor associated with one or more remote terminals through which trades can be made by members of the exchange who enter offers or bids at the remote terminal and couple them to a central processor which compares any bid with offers on a priority basis, finds a match

Art Unit: 3691

and completes the execution of the transaction.; Column 3, Lines 53-58, In addition, the video monitor of each remote terminal will display lot sizes, last sale prices, daily price ranges, the volume for each contract month, the spread relationships or price differential among the various contract months, and allows simultaneous spread trades (both in time and by commodity) to take place.) and wherein the matching algorithm includes:

a synthetic pricing routine that calculates a synthetic high price and a synthetic low price for the at least one complex order (see Figure 1 and related, Figure 6 and related text; see Figure 9 and related text)

an inverting routine that sorts the inverse complex order, determines an inverse complex order with the lowest inverted net price that is less than or equal to the synthetic high price and greater than or equal to the synthetic low price, and matches the at least one complex order with the determined inversed complex order if such an inverse complex order is found (see Figure 1 and related, Figure 6 and related text; see Figure 19 and related text; Column 1, Lines 5-13, The present invention relates to a futures trading exchange and in particular to an automated open outcry futures trading exchange having a central processor associated with one or more remote terminals through which trades can be made by members of the exchange who enter offers or bids at the remote terminal and couple them to a central processor which compares any bid with offers on a priority basis, finds a match and completes the execution of the transaction.; Column 3, Lines 53-58, In addition, the video monitor of each remote terminal will display lot sizes, last sale prices, daily price ranges, the volume for each contract month, the spread relationships or price differential among the various contract

Art Unit: 3691

months, and allows simultaneous spread trades (both in time and by commodity) to take place.)).

(Note: Examiner interprets "simultaneous spread trades" to mean matching all legs of the spread as a spread requires one long leg and one short leg on two different instruments).

17. **As per Claim 2**, Wagner discloses the system of claim 1, wherein matching each leg of the at least one complex order is contingent on matching all of the legs of the complex order (Column 3, Lines 53-58, In addition, the video monitor of each remote terminal will display lot sizes, last sale prices, daily price ranges, the volume for each contract month, the spread relationships or price differential among the various contract months, and allows simultaneous spread trades (both in time and by commodity) to take place.). Note: Examiner interprets "simultaneous spread trades" to mean matching all legs of the spread as a spread requires one long leg and one short leg on two different instruments.

18. **As per Claim 4**, Wagner discloses the system of claim 1, wherein the plurality of financial instruments includes at least one options contract (Column 4, Lines 11-13, The exchange central computer will be able to handle a full array of futures orders including straddles, limit orders and stop orders.). Examiner notes that straddles involve buying an equal amount of call options and put options with the same strike price.

19. **As per Claim 6**, Wagner discloses the system of claim 1, wherein the plurality of financial instruments includes at least one futures contract (Column 1, Lines 5-13, The present invention relates to a futures trading exchange and in particular to an

Art Unit: 3691

automated open outcry futures trading exchange having a central processor associated with one or more remote terminals through which trades can be made by members of the exchange who enter offers or bids at the remote terminal and couple them to a central processor which compares any bid with offers on a priority basis, finds a match and completes the execution of the transaction.; Column , Lines , The present invention, the automated futures trade exchange, has created an entire automated process for trading futures contracts which provides accurate and precise information, trading based on factual data, assurance of execution and immediate confirmation of the contracts, control through real time processing of information and electronic surveillance, and the use of computer hardware to implement the process. It does not separate clearing and surveillance from the futures trading process as do other exchanges because it is the combined process which allows the markets to function properly.; Column 24, Lines 19-25, A method of transacting a sale of a particular futures commodity in varying volumes or lot sizes by members of a futures trading exchange as principals or agents for others wherein bids to purchase or offers to sell are made by said principals or agents for said particular commodity, said method comprising the steps of:).

20. **As per Claim 7**, Wagner discloses the system of claim 6, wherein the plurality of financial instruments includes an amount of a commodity underlying the at least one futures contract (Column 20, Lines 57-68 and Column 21, Line 1, These terminals can communicate with the central processor of the exchange system which validates the terminal input, cues the orders being received by time, size and commodity, executes

Art Unit: 3691

matching bids and offers and clears trades simultaneously, reports the last sale by time, quantity and price according to commodity, reports bids/offers as they are received, notifies traders of filled or unfilled orders, reports various market conditions and transaction to the remote terminals for use by the traders, maintains a detailed trade history of each member of the exchange and provides the necessary trade data for settlement and compliance.; Column 3, Lines 49-52, the breadth of the market will also be indicated. That is, whether a bid of 200 contracts represents an offer to buy 200 contracts or 20 offers to buy 10 contracts).

21. **As per Claim 8**, Wagner discloses the system of claim 1, wherein the processor is adapted to periodically monitor the memory to determine if there is at least one complex order can be matched (Column 11, Lines 7-21, Again, if comparator 144 finds that a match occurs with a particular order and an execution can occur, a signal is produced on connection 153 which is coupled to comparator 155 which determines whether or not there is a new high or new low price. If a new high or a new low price is determined, that information is coupled through connection 157 to the memory 159 where the commodity file and the day file is updated with the new high or the new low price for that day and for that commodity. That information is also coupled through connection 163 to memory 165 to update the central processor price field and quantity file. In addition, of course, the confirmation of the order and the execution and the display thereof is taking place as shown in FIG. 5.; Column 13, Lines 39-47, The conditional order circuit 236 in FIG. 7 is disclosed in detail in FIG. 9. If the signal produced by decision unit 230 on line 232 in FIG. 7 is a conditional order it will be coupled on line 232 to the conditional order

Art Unit: 3691

circuit shown in FIG. 9. The conditional orders are either "fill or kill" or "limit up," "limit down," "time order," "at market" , "stops," and "spreads/straddles." Other types could be established if needed or desired. If the conditional order is a "fill or kill" order it is coupled to open order memory queue 316 where it is stored and an output produced on line 318 to circuit 320 which determines whether or not the "fill or kill" conditions can be satisfied. If the order can be filled, circuit 320 produces an output on line 322 which is coupled to match circuit 248 in FIG. 8 and the signal processed as described previously. Column 8, Lines 1-3, Also it does trade matching by surveying all bids and all offers and finding a match, if one exists, between the bids and offers.).

22. **As per Claim 10**, Wagner discloses the system of claim 1, wherein the processor is adapted to monitor the memory to determine if the at least one complex order can be matched on the occurrence of a market event (Column 11, Lines 7-21, Again, if comparator 144 finds that a match occurs with a particular order and an execution can occur, a signal is produced on connection 153 which is coupled to comparator 155 which determines whether or not there is a new high or new low price. If a new high or a new low price is determined, that information is coupled through connection 157 to the memory 159 where the commodity file and the day file is updated with the new high or the new low price for that day and for that commodity. That information is also coupled through connection 163 to memory 165 to update the central processor price field and quantity file. In addition, of course, the confirmation of the order and the execution and the display thereof is taking place as shown in FIG. 5.;

Art Unit: 3691

Column 8, Lines 1-3, Also it does trade matching by surveying all bids and all offers and finding a match, if one exists, between the bids and offers.).

23. **As per Claim 11**, Wagner discloses the system of claim 10, wherein the market event includes a change in best price information (Column 2, Lines 15-25, The opportunity for mistake or abuse has been acknowledged by regulators and exchanges alike. As the system presently exists, trades are not confirmed until after an exchange is closed for the day. Therefore, if a floor trader has traded in front of a customer in order to obtain a better price or has failed to execute a trade for fraudulent reasons, it is difficult to detect. Even when a trade has been properly executed the opportunity for abuse or mistakes is still high as will be discussed hereinafter.; Column 19, Lines 43-51, This system enables the trader to carry a portable terminal to some location apart from his remote terminal and allows him to communicate with the trading system over the phone lines to determine the highest bid made, the lowest offer made and the last trade price of a particular commodity. The information received from the trading system is displayed so that he can make the proper decision. He can then make an offer or bid at a price he selects or at the market price.; Column 6, Lines 13-18, FIG. 6 is a diagrammatic representation of the memory storage circuits of the host or central computer in the trading system for storing the bids or offers by time, price and quantity and for updating the price field in the memory when a new high or new low price is submitted; Column 11, Lines 7-21, Again, if comparator 144 finds that a match occurs with a particular order and an execution can occur, a signal is produced on connection 153 which is coupled to comparator 155 which determines whether or not there is a new

Art Unit: 3691

high or new low price. If a new high or a new low price is determined, that information is coupled through connection 157 to the memory 159 where the commodity file and the day file is updated with the new high or the new low price for that day and for that commodity. That information is also coupled through connection 163 to memory 165 to update the central processor price field and quantity file. In addition, of course, the confirmation of the order and the execution and the display thereof is taking place as shown in FIG. 5.).

24. **As per Claim 12**, Wagner discloses the system of claim 10, wherein the market event includes the storage of a new order or quotation in the memory (Column 3, Lines 43-47, The exchange central computer will retain all orders received, arranging each bid and offer on the basis of its price, quantity and entry time and displaying all bids in descending order of price and all offers in ascending order of price.; Column 6, Lines 13-18, FIG. 6 is a diagrammatic representation of the memory storage circuits of the host or central computer in the trading system for storing the bids or offers by time, price and quantity and for updating the price field in the memory when a new high or new low price is submitted; Column 11, Lines 7-21, Again, if comparator 144 finds that a match occurs with a particular order and an execution can occur, a signal is produced on connection 153 which is coupled to comparator 155 which determines whether or not there is a new high or new low price. If a new high or a new low price is determined, that information is coupled through connection 157 to the memory 159 where the commodity file and the day file is updated with the new high or the new low price for that day and for that commodity. That information is also coupled through connection 163 to

Art Unit: 3691

memory 165 to update the central processor price field and quantity file. In addition, of course, the confirmation of the order and the execution and the display thereof is taking place as shown in FIG. 5.; Column 12, Lines 8-15, If identifier unit 194 determines that the incoming signals constitute a new order, it produces an output on connection 210 to the order process circuitry 212 in the central processor unit for processing. The output of circuitry 212 on line 214 is coupled to a time stamp unit 216 and sent through connection 218 to the memory history file 220. Thus, a file history of all orders is kept in memory 220.).

25. **As per Claim 17**, Wagner discloses the system of claim 1, wherein the at least one complex order stored earliest in time is ranked with a higher priority for execution than complex orders stored later in time (Column 24, Lines 32-35, comparing said received bids and offers and matching equal bids and offers on a first come, first served basis according to the time of receiving said bids and offers thereby storing a trading system; Column 3, Lines 43-47, The exchange central computer will retain all orders received, arranging each bid and offer on the basis of its price, quantity and entry time and displaying all bids in descending order of price and all offers in ascending order of price.).

26. **As per Claim 18**, Wagner discloses the system according to claim 1, further comprising an execution processor coupled with the processor and adapted to execute the at least one complex order with the determined inverse complex order (Column 12, Lines 16-19, As the order is time stamped and filed in the history file of the memory 220; Column 12, Lines 8-15, If identifier unit 194 determines that the incoming signals

Art Unit: 3691

constitute a new order, it produces an output on connection 210 to the order process circuitry 212 in the central processor unit for processing. The output of circuitry 212 on line 214 is coupled to a time stamp unit 216 and sent through connection 218 to the memory history file 220. Thus, a file history of all orders is kept in memory 220.;

Column 1, Lines 5-13, The present invention relates to a futures trading exchange and in particular to an automated open outcry futures trading exchange having a central processor associated with one or more remote terminals through which trades can be made by members of the exchange who enter offers or bids at the remote terminal and couple them to a central processor which compares any bid with offers on a priority basis, finds a match and completes the execution of the transaction.; Column 3, Lines 53-58, In addition, the video monitor of each remote terminal will display lot sizes, last sale prices, daily price ranges, the volume for each contract month, the spread relationships or price differential among the various contract months, and allows simultaneous spread trades (both in time and by commodity) to take place.); Column 7, Lines 3-8, Thus, if remote terminal 18 is a "smart" terminal, it may include a microprocessor 22 which would include a keyboard and a display for text editing which is associated with a memory or storage unit 24 through connection 26, a printer 28 through connection 30 and an output on connection 34 to modem 32.).

27. **As per Claim 20**, Wagner does disclose the system of claim 1, wherein a number of option contracts for at least one leg of the at least one complex order is a ratio of a number of option contracts for at least one other leg of the at least one complex order (Column 4, Lines 10-13, The exchange central computer will be able to

Art Unit: 3691

handle a full array of futures orders including straddles, limit orders and stop orders).

Examiner notes that the ratio of legs in a straddle is 1:1 (one short call, one short put).

28. **As per Claim 21**, Wagner discloses the system of claim 20, wherein the matching algorithm is adapted to match a portion of each leg of the at least one complex order based on the ratio (Column 4, Lines 10-13, The exchange central computer will be able to handle a full array of futures orders including straddles, limit orders and stop orders; Column 15, Lines 48-55, The output of the time stamp unit at step 450 is also coupled on line 456 to decision unit which determines whether or not the total quantity of the order can be satisfied as at step 458. If only part of the order can be satisfied and there is a partial match, that portion which is not matched is coupled through path 460 back to the order queue where it is reprocessed as in step 446 until a match can occur.; Column 3, Lines 53-58, In addition, the video monitor of each remote terminal will display lot sizes, last sale prices, daily price ranges, the volume for each contract month, the spread relationships or price differential among the various contract months, and allows simultaneous spread trades (both in time and by commodity) to take place).

Claim Rejections - 35 USC § 103

29. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

30. Claims 23, and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wagner in view of U.S. Patent Application Publication 2003/0004899A1 to Bergenudd (hereinafter Bergenudd).

31. As per Claim 23, Wagner does not expressly disclose the system according to claim 9, wherein the net price of the plurality of complex order is determined from a current market price for each leg of the at least one complex order.

However, Bergenudd teaches determining a net price of a complex order is from a current market price for each leg of the complex order (see Figure 2; ¶3, An order involving a number of different simultaneous trades of contracts is usually referred to as a combination order or a combination contract order. For example, a person may wish to buy 7 contracts A and sell 6 contracts B and not pay more than \$100 for the whole combination contract. The amount that the person pays or receives when a combination order is traded is referred to the net price of the combination order.; ¶4, Furthermore, when a combination contract (or a number of them) are to be executed at a given net price, it is often necessary to determine the price for each product/sub-contract of the combination order. The price for each sub-contract, sometimes referred to as a leg. must be set so that when executing all the legs of a combination contract, the total price of all legs will equal the net price of the combination.; ¶13, It is another object of the present invention to provide a computerized trading system for trading combination orders that uses less processor power for calculating and determining the prices for the individual legs of a combination order by always providing a solution with a correct net price.).

Therefore, it would have been obvious to a person having ordinary skill in the art at the time the invention was made to modify the invention of Wagner with the teachings of Bergenud so that a net price of the at least one complex order is determined from a current market price for each leg of the at least one complex order.

A person having ordinary skill in the art at the time the invention was made would have been motivated to do so in order to insure the ability to match the order as taught by Bergenud ((¶4, Furthermore, when a combination contract (or a number of them) are to be executed at a given net price, it is often necessary to determine the price for each product/sub-contract of the combination order. The price for each sub-contract, sometimes referred to as a leg, must be set so that when executing all the legs of a combination contract, the total price of all legs will equal the net price of the combination.; ¶20, Thus, given a combination contract, a tick size, and a valid price interval for the product of each leg, there will be a valid price interval for the net price. If the net price is outside that interval, it is always impossible to find a valid solution. Such an order will not be matched in the system.).

32. **As per Claim 25**, Wagner discloses a system for matching complex orders to purchase or sell a plurality of financial instruments (Column 1, Lines 5-13, The present invention relates to a futures trading exchange and in particular to an automated open outcry futures trading exchange having a central processor associated with one or more remote terminals through which trades can be made by members of the exchange who enter offers or bids at the remote terminal and couple them to a central processor which compares any bid with offers on a priority basis, finds a match and completes the

Art Unit: 3691

execution of the transaction.; Column 4, Lines 10-13, The exchange central computer will be able to handle a full array of futures orders including straddles, limit orders and stop orders), the system comprising:

a memory adapted to store a plurality of orders or quotations including one or more complex orders, a plurality of inverse complex orders and a plurality of regular orders (Column 7, Lines 3-8, Thus, if remote terminal 18 is a "smart" terminal, it may include a microprocessor 22 which would include a keyboard and a display for text editing which is associated with a memory or storage unit 24 through connection 26, a printer 28 through connection 30 and an output on connection 34 to modem 32.;

Column 3, Lines 43-47, The exchange central computer will retain all orders received, arranging each bid and offer on the basis of its price, quantity and entry time and displaying all bids in descending order of price and all offers in ascending order of price.; Column 6, Lines 13-18, FIG. 6 is a diagrammatic representation of the memory storage circuits of the host or central computer in the trading system for storing the bids or offers by time, price and quantity), wherein the complex and inverse complex orders each include a net price;

a processor coupled with the memory to identify matches between at least one complex order and the plurality of inverse complex orders and regular orders (Column 7, Lines 3-8, Thus, if remote terminal 18 is a "smart" terminal, it may include a microprocessor 22 which would include a keyboard and a display for text editing which is associated with a memory or storage unit 24 through connection 26, a printer 28 through connection 30 and an output on connection 34 to modem 32.: Column 1, Lines

Art Unit: 3691

5-13, The present invention relates to a futures trading exchange and in particular to an automated open outcry futures trading exchange having a central processor associated with one or more remote terminals through which trades can be made by members of the exchange who enter offers or bids at the remote terminal and couple them to a central processor which compares any bid with offers on a priority basis, finds a match and completes the execution of the transaction.); and

wherein the matching algorithm includes:

a synthetic pricing routine that calculates a synthetic high price and a synthetic low price for the at least one complex order (see Figure 1 and related, Figure 6 and related text; see Figure 9 and related text)

an inverting routine that sorts the inverse complex order, determines an inverse complex order with the lowest inverted net price that is less than or equal to the synthetic high price and greater than or equal to the synthetic low price, and matches the at least one complex order with the determined inversed complex order if such an inverse complex order is found (see Figure 1 and related, Figure 6 and related text; see Figure 19 and related text; Column 1, Lines 5-13, The present invention relates to a futures trading exchange and in particular to an automated open outcry futures trading exchange having a central processor associated with one or more remote terminals through which trades can be made by members of the exchange who enter offers or bids at the remote terminal and couple them to a central processor which compares any bid with offers on a priority basis, finds a match and completes the execution of the transaction.; Column 3, Lines 53-58, In addition, the video monitor of each remote

Art Unit: 3691

terminal will display lot sizes, last sale prices, daily price ranges, the volume for each contract month, the spread relationships or price differential among the various contract months, and allows simultaneous spread trades (both in time and by commodity) to take place.)).

Wagner does not expressly disclose a matching algorithm coupled with the processor, wherein the processor uses the matching algorithm to match each leg of the at least one complex order with the plurality of regular orders in a single transaction at a single net price.

However, Bergenudd teaches a complex order with a net price wherein the matching algorithm matches the complex order based on the net price (see Figure 2; ¶13, An order involving a number of different simultaneous trades of contracts is usually referred to as a combination order or a combination contract order. For example, a person may wish to buy 7 contracts A and sell 6 contracts B and not pay more than \$100 for the whole combination contract. The amount that the person pays or receives when a combination order is traded is referred to the net price of the combination order.; ¶14, Furthermore, when a combination contract (or a number of them) are to be executed at a given net price, it is often necessary to determine the price for each product/sub-contract of the combination order. The price for each sub-contract, sometimes referred to as a leg. must be set so that when executing all the legs of a combination contract, the total price of all legs will equal the net price of the combination.; ¶13, It is another object of the present invention to provide a computerized trading system for trading combination orders that uses less processor

Art Unit: 3691

power for calculating and determining the prices for the individual legs of a combination order by always providing a solution with a correct net price.).

Therefore, it would have been obvious to a person having ordinary skill in the art at the time the invention was made to modify the invention of Wagner with the teachings of Bergenudd to match each leg of the at least one complex order with the plurality of regular orders and quotations in a single transaction at a single net price.

A person having ordinary skill in the art at the time the invention was made would have been motivated to do so in order to matching of all the legs of a complex order as taught by Bergenudd (¶4. Furthermore, when a combination contract (or a number of them) are to be executed at a given net price, it is often necessary to determine the price for each product/sub-contract of the combination order. The price for each sub-contract, sometimes referred to as a leg, must be set so that when executing all the legs of a combination contract, the total price of all legs will equal the net price of the combination.; ¶20. Thus, given a combination contract, a tick size, and a valid price interval for the product of each leg, there will be a valid price interval for the net price. If the net price is outside that interval, it is always impossible to find a valid solution. Such an order will not be matched in the system.).

33. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wagner in view of U.S. Patent No. 6,064,985 to Anderson (hereinafter Anderson).

34. As per Claim 5, Wagner does not expressly disclose the system of claim 4, wherein the plurality of financial instruments includes at least one order to purchase or sell stock underlying the at least one options contract .

However, Anderson teaches an automated portfolio management system that includes the selling of covered calls (Column 2, Lines 48-51, In both aspects of the system or method of the invention, stocks which are purchased for the investment portfolio have covered calls written against them for which a premium is received.).

Therefore, it would have been obvious to a person having ordinary skill in the art at the time the invention was made to modify the invention of Wagner with the teachings of Anderson to include at least one order to purchase or sell stock underlying the at least one options contract .

A person having ordinary skill in the art at the time the invention was made would have been motivated to do so in order to provide a trader with additional functionality of being able to protect the investor from the payoff on a short call that becomes necessary if there is a sharp rise in the stock price underlying the call option.

35. Claim 9 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wagner.

36. As per Claim 9, Wagner discloses system of claim 1, further comprising a data interface coupled with the processor, wherein the data interface receives best price information (Column 11, Lines 7-21, Again, if comparator 144 finds that a match occurs with a particular order and an execution can occur, a signal is produced on connection 153 which is coupled to comparator 155 which determines whether or not there is a new high or new low price. If a new high or a new low price is determined, that information is coupled through connection 157 to the memory 159 where the commodity file and the day file is updated with the new high or the new low price for that day and for that

Art Unit: 3691

commodity. That information is also coupled through connection 163 to memory 165 to update the central processor price field and quantity file. In addition, of course, the confirmation of the order and the execution and the display thereof is taking place as shown in FIG. 5.; Column 19, Lines 43-50, This system enables the trader to carry a portable terminal to some location apart from his remote terminal and allows him to communicate with the trading system over the phone lines to determine the highest bid made, the lowest offer made and the last trade price of a particular commodity. The exchange central computer will automatically match equal bids and offers on a first come, first served basis thereby executing the transaction.).

Wagner does not expressly disclose that the matching algorithm calculates the synthetic high price and synthetic low price using the best price information.

However, Wagner does teach retrieving the best price and executing each leg of a complex order (Column 19, Lines 43-50, This system enables the trader to carry a portable terminal to some location apart from his remote terminal and allows him to communicate with the trading system over the phone lines to determine the highest bid made, the lowest offer made and the last trade price of a particular commodity. The exchange central computer will automatically match equal bids and offers on a first come, first served basis thereby executing the transaction.; Column 3, Lines 53-58, In addition, the video monitor of each remote terminal will display lot sizes, last sale prices, daily price ranges, the volume for each contract month, the spread relationships or price differential among the various contract months, and allows simultaneous spread trades (both in time and by commodity) to take place.).

Therefore, it would have been obvious to a person having ordinary skill in the art at the time the invention was made to modify the invention of Wagner so that the matching algorithm calculates the synthetic high price and synthetic low price using the best price information.

A person having ordinary skill in the art at the time the invention was made would have been motivated to do so in order to as a matter of obvious design choice in providing the opportunity for price improvement for the complex order overall.

37. **As per Claim 22**, Wagner does not expressly disclose the system according to claim 14, further comprising an obvious price error algorithm coupled with the processor, the obvious price error algorithm preventing matching algorithm from matching the complex order against the determined inverse complex order if a price improvement by the determined inverse complex order is greater than an error prevention value.

However, Wagner does teach checking for price errors (Column 2, Lines 26-41, On a traditional exchange, after a trade is made a card is handed to an exchange employee who then keypunches the data into the computer. At the same time trading cards must be manually sorted to match trades. At the end of the day the computer lists are checked against the trading cards to reach agreement as to the trades which have been made. As can be well understood, there, first, may have been a mistake in the keypunching process. Secondly, there may be a difference given in the two cards as to the price at which a trade was made and thirdly because the trades are based on eye contact, there may be a difference in opinion as to whether a trade was actually made at

Art Unit: 3691

all. When there is disagreement, a list of "out trades" is made and agreement must be reached as to whether the trade was made at all and if so at what price).

Therefore, it would have been obvious to a person having ordinary skill in the art at the time the invention was made to modify the invention of Wagner to include an obvious price error algorithm coupled with the processor, the obvious price error algorithm preventing matching algorithm from matching the complex order against the determined inverse complex order if a price improvement by the determined inverse complex order is greater than an error prevention value in order to reduce the opportunities for mistake or abuse of the trading system.

38. Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wagner in view of U.S. Patent No. US 5,905,974 A to Fraser et al. (hereinafter Fraser).

39. As per Claim 13, Wagner does not expressly disclose the system of claim 1, further comprising an arrival delay timer, the arrival delay timer delaying execution of the matching algorithm for a period time from when the at least one complex order is stored by the memory.

However, Fraser teaches a trading system with an arrival delay timer that delays the execution of orders (Column 10, Lines 62-67, The When State is triggered by a trading command against an uncleared Bid/Offer by an Aggressor who is not one of the original makers. However, the system controls will not allow this trading command by the new Aggressor to be instantaneously executed. In accordance with system logic, the trading processor creates a time interval or delay, and thereby provides the original

Art Unit: 3691

Maker(s) time to assess the new situation created by the Aggressor by permitting response to the uncleared entry on the passive side.)

Therefore, it would have been obvious to a person having ordinary skill in the art at the time the invention was made to modify the invention of Wagner with the teachings of Fraser to include an arrival delay timer, the arrival delay timer delaying execution of the matching algorithm for a period time from when the at least one complex order is stored by the memory.

A person having ordinary skill in the art at the time the invention was made would have been motivated to do so in order to provides the original trader with the stored order time to assess the new situation created by the new trader by permitting response to the uncleared entry on the passive side as taught by Fraser (Column 10, Lines 62-67, The When State is triggered by a trading command against an uncleared Bid/Offer by an Aggressor who is not one of the original makers. However, the system controls will not allow this trading command by the new Aggressor to be instantaneously executed. In accordance with system logic, the trading processor creates a time interval or delay, and thereby provides the original Maker(s) time to assess the new situation created by the Aggressor by permitting response to the uncleared entry on the passive side.)

40. Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wagner in view of U.S. Patent No. 5,101,353 to Lupien et al. (hereinafter Lupien).

41. As per Claim 19, Wagner does not expressly disclose the system of claim 9, wherein the best price information reflects prices for an options contract on at least one away market.

Art Unit: 3691

However, Lupien teaches providing external price quotations from a plurality of external markets to a market system (Column 15, Line 50-54, first storage means for collecting and storing securities transaction data and price quotation data both from a plurality of securities markets external to the system and from buy and sell orders and transactions generated internal to the system).

Therefore, it would have been obvious to a person having ordinary skill in the art at the time the invention was made to modify the invention of Wagner with the teachings of Lupien so that the best price information reflects prices for an options contract on at least one away market.

A person having ordinary skill in the art at the time the invention was made would have been motivated to do so in order to provide an investor with a comparator for the prices of the inside market.

42. Claim 24 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wagner in view of Bergenudd and in further view of Minton.

43. As per Claim 24, Wagner discloses a system for matching complex orders to purchase or sell a plurality of financial instruments (Column 1, Lines 5-13, The present invention relates to a futures trading exchange and in particular to an automated open outcry futures trading exchange having a central processor associated with one or more remote terminals through which trades can be made by members of the exchange who enter offers or bids at the remote terminal and couple them to a central processor which compares any bid with offers on a priority basis, finds a match and completes the execution of the transaction.; Column 4, Lines 10-13, The exchange central computer

Art Unit: 3691

will be able to handle a full array of futures orders including straddles, limit orders and stop orders), the system comprising:

a memory adapted to store a plurality of orders or quotations including at least one complex a plurality of inverse complex orders, and a plurality of regular orders, wherein the complex and inverse complex orders each include a net price (Column 7, Lines 3-8, Thus, if remote terminal 18 is a "smart" terminal, it may include a microprocessor 22 which would include a keyboard and a display for text editing which is associated with a memory or storage unit 24 through connection 26, a printer 28 through connection 30 and an output on connection 34 to modem 32.; Column 3, Lines 43-47, The exchange central computer will retain all orders received, arranging each bid and offer on the basis of its price, quantity and entry time and displaying all bids in descending order of price and all offers in ascending order of price.; Column 6, Lines 13-18, FIG. 6 is a diagrammatic representation of the memory storage circuits of the host or central computer in the trading system for storing the bids or offers by time, price and quantity),

a processor coupled with the memory to identify matches among complex orders and inverse complex orders, and regular orders ((Column 7, Lines 3-8, Thus, if remote terminal 18 is a "smart" terminal, it may include a microprocessor 22 which would include a keyboard and a display for text editing which is associated with a memory or storage unit 24 through connection 26, a printer 28 through connection 30 and an output on connection 34 to modem 32.: Column 1, Lines 5-13, The present invention relates to a futures trading exchange and in particular to an automated open outcry futures trading

Art Unit: 3691

exchange having a central processor associated with one or more remote terminals through which trades can be made by members of the exchange who enter offers or bids at the remote terminal and couple them to a central processor which compares any bid with offers on a priority basis, finds a match and completes the execution of the transaction.); and

wherein the quantity of at least one leg of the complex order is a ratio of at least one other leg of the complex order (Column 4, Lines 10-13, The exchange central computer will be able to handle a full array of futures orders including straddles, limit orders and stop orders—Examiner notes that the ratio of legs in a straddle is 1:1 (one short call, one short put), and

wherein the legs of the at least one complex order are matched and the legs are executed consistent with the ratio (Column 4, Lines 10-13, The exchange central computer will be able to handle a full array of futures orders including straddles, limit orders and stop orders; Column 15, Lines 48-55, The output of the time stamp unit at step 450 is also coupled on line 456 to decision unit which determines whether or not the total quantity of the order can be satisfied as at step 458. If only part of the order can be satisfied and there is a partial match, that portion which is not matched is coupled through path 460 back to the order queue where it is reprocessed as in step 446 until a match can occur.; Column 3, Lines 53-58, In addition, the video monitor of each remote terminal will display lot sizes, last sale prices, daily price ranges, the volume for each contract month, the spread relationships or price differential among the

Art Unit: 3691

various contract months, and allows simultaneous spread trades (both in time and by commodity) to take place);

wherein the matching algorithm includes:

a synthetic pricing routine that calculates a synthetic high price and a synthetic low price for the at least one complex order (see Figure 1 and related, Figure 6 and related text; see Figure 9 and related text)

an inverting routine that sorts the inverse complex order, determines an inverse complex order with the lowest inverted net price that is less than or equal to the synthetic high price and greater than or equal to the synthetic low price, and matches the at least one complex order with the determined inversed complex order if such an inverse complex order is found (see Figure 1 and related, Figure 6 and related text; see Figure 19 and related text; Column 1, Lines 5-13, The present invention relates to a futures trading exchange and in particular to an automated open outcry futures trading exchange having a central processor associated with one or more remote terminals through which trades can be made by members of the exchange who enter offers or bids at the remote terminal and couple them to a central processor which compares any bid with offers on a priority basis, finds a match and completes the execution of the transaction.; Column 3, Lines 53-58, In addition, the video monitor of each remote terminal will display lot sizes, last sale prices, daily price ranges, the volume for each contract month, the spread relationships or price differential among the various contract months, and allows simultaneous spread trades (both in time and by commodity) to take place.)).

Wagner does not expressly disclose a matching algorithm coupled with the processor and adapted to match each leg of the complex order with a plurality of regular orders and quotations in a single transaction at a single net price.

Wagner does not expressly disclose a matching algorithm coupled with the processor and adapted to match each leg of the at least one complex order with the plurality of regular orders and quotations in a single transaction at a single net price.

However, Bergenudd teaches a complex order with a net price wherein the matching algorithm matches the complex order based on the net price (see Figure 2; ¶3, An order involving a number of different simultaneous trades of contracts is usually referred to as a combination order or a combination contract order. For example, a person may wish to buy 7 contracts A and sell 6 contracts B and not pay more than \$100 for the whole combination contract. The amount that the person pays or receives when a combination order is traded is referred to the net price of the combination order.; ¶4, Furthermore, when a combination contract (or a number of them) are to be executed at a given net price, it is often necessary to determine the price for each product/sub-contract of the combination order. The price for each sub-contract, sometimes referred to as a leg. must be set so that when executing all the legs of a combination contract, the total price of all legs will equal the net price of the combination.; ¶13, It is another object of the present invention to provide a computerized trading system for trading combination orders that uses less processor power for calculating and determining the prices for the individual legs of a combination order by always providing a solution with a correct net price.).

Therefore, it would have been obvious to a person having ordinary skill in the art at the time the invention was made to modify the invention of Wagner with the teachings of Bergenudd to match each leg of the at least one complex order with the plurality of regular orders and quotations in a single transaction at a single net price.

A person having ordinary skill in the art at the time the invention was made would have been motivated to do so in order to matching of all the legs of a complex order as taught by Bergenudd (¶4, Furthermore, when a combination contract (or a number of them) are to be executed at a given net price, it is often necessary to determine the price for each product/sub-contract of the combination order. The price for each sub-contract, sometimes referred to as a leg, must be set so that when executing all the legs of a combination contract, the total price of all legs will equal the net price of the combination.; ¶20, Thus, given a combination contract, a tick size, and a valid price interval for the product of each leg, there will be a valid price interval for the net price. If the net price is outside that interval, it is always impossible to find a valid solution. Such an order will not be matched in the system.).

Neither Wagner nor Bergenudd expressly disclose further wherein the regular orders are selected based on an allocation algorithm adapted to allocate preferentially first to any customer orders and next to professional orders and quotations with larger size.

However, Minton teaches and interactive securities trading system that permits both professionals and non-professionals orders (Column 2, Lines 60-64, It is therefore an object of the present invention to provide a data processing system, and a network of

Art Unit: 3691

data processing systems for allowing individuals to buy and sell securities directly from other individuals, with only minimal oversight by a broker.).

Therefore, it would have been obvious to a person having ordinary skill in the art at the time the invention was made to modify the invention of Wagner in view of Bergenudd with the teachings of Minton so that the at least one complex order includes orders associated with non-professionals and professionals, and wherein complex orders from non-professionals are ranked with a higher priority for execution than complex orders received from professionals.

A person having ordinary skill in the art at the time the invention was made would have been motivated to do so in order to provide non-professionals the ability to trade their own accounts and get better deals and make markets as taught by Minton (Column 2, Lines 46-57, Therefore, what is needed is a data processing system and a network of data processing systems whereby individuals can buy and sell directly from each other, with only minimal involvement by a broker. In such a communications network an individual would be in a similar position to that of a broker, i.e, an individual would have access to many other individuals wishing to buy and sell securities. In such a network, an individual would be able to select among many competing offers to buy and sell, and thus would be able to get a better deal than if they were going through a broker. Also, such a network would allow individuals to make markets in the securities they wish.).

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kellie Campbell whose telephone number is (571) 270-5495. The examiner can normally be reached on Monday through Thursday, 6:30 am to 5 pm est. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Alexander Kalinowski can be reached on 571-272-6771. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3691

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KC

/Alexander Kalinowski/

Supervisory Patent Examiner, Art Unit 3691